

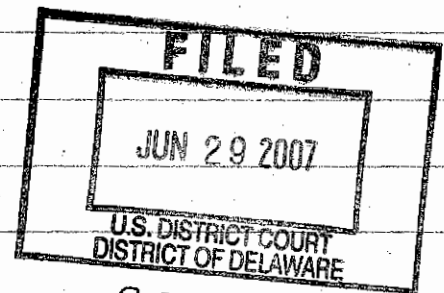
IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

KEVIN C. BRATHWAITE  
PLAINTIFF

V.

C.A.# 04-1542 - G.M.S.  
JURY TRIAL Demanded

MARCELLO Rispoli, et al  
defendants



BP scanned

MOTION FOR INJUNCTIVE RELIEF

COMES NOW, THE PLAINTIFF, Kevin C. Brathwaite, requesting that this honorable court issue AN injunction to have his injuries properly treated. To support this motion, this Plaintiff offers the following:

1. This Plaintiff has been suffering from the injuries that was a direct result of the assault that took place on October, 9<sup>th</sup>, 2004

2. Over the past two AND A HALF years this PLAINTIFF HAS MADE numerous attempts, by way of Sick call request, grievances, and letters to have his injuries properly treated.
3. This PLAINTIFF has been told that he is in need of a root canal to correct the damage that was done to his front teeth. AND that the only way he could get the root canal, was that it had to be approved by the warden.
4. This PLAINTIFF was seen by the dentist on June, 5<sup>th</sup>, 2006 AND was told that the injury had gone untreated for so long that it has developed an infection.
6. On September, 25<sup>th</sup>, 2006 this PLAINTIFF was seen by the dentist AND told that the infection on his front teeth still exist, but authorization for the root canal still hasn't been granted.

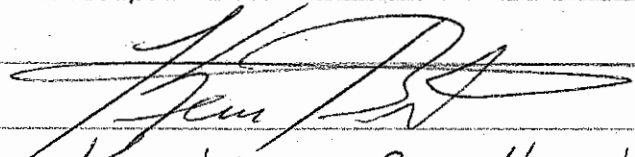
7. ON OR ABOUT, JANUARY, 3<sup>RD</sup>, 2007 DR. KIONKE told this PLAINTIFF that the WARDEN still had not AUTHORIZED the root CANAL.
8. AS A RESULT OF this ASSAULT this PLAINTIFF'S fillings have also been DAMAGED.
9. OVER A YEAR AGO ON JUNE, 8<sup>TH</sup>, 2006 this PLAINTIFF FINALLY HAD A grievance hearing AND his grievances were DENIED.
10. AFTER APPEALING the grievance boards decision to deny the grievances, ~~ON~~ NINE MONTHS LATER ON MARCH, 12, 2007, the outside grievance Committee granted the PLAINTIFF'S APPEAL AND upheld the grievance request MADE by this PLAINTIFF. See, ATTACHED EXHIBITS.



11. NONE of the injuries AND damage on this Plaintiff's Front teeth or Fillings is of ANY fault of his.

Therefore, this Plaintiff respectfully request that this honorable Court grant this Motion for injunctive relief. AND order that he receive a proper root CANAL AND ANY other cosmetic procedure to repair ALL damage due to being untreated.

~~KEVIN C B~~



KEVIN C. BRATHWAITE

1181 Paddock Rd.

SMYRNA DE.

19977

DATED: June, 27<sup>th</sup>, 2007

DEPARTMENT OF CORRECTION  
Bureau of Prisons  
245 McKee Road  
Dover, Delaware 19904

March 12, 2007  
March 12, 2007

17-BL-8

Inmate BRATHWAITE KEVIN C  
SBI # 00315294  
DCC Delaware Correctional Center  
SMYRNA DE, 19977

Dear KEVIN BRATHWAITE:

We have reviewed your Grievance Case # 46948 dated 06/08/2006.

Based upon the documentation presented for our review, we uphold your appeal request.

Accordingly, there is no further issue to mediate nor Outside Review necessary as provided by BOP Procedure 4.4 entitled "Inmate Grievance Procedure", Level III appeals.

Sincerely,

Richard Kearney  
Bureau Chief

Exhibit-A

DCC Delaware Correctional Center  
 Smyrna Landing Road  
 SMYRNA DE, 19977  
 Phone No. 302-653-9261

Date: 03/13/2007

## GRIEVANCE REPORT

### OFFENDER GRIEVANCE INFORMATION

Offender Name : BRATHWAITE, KEVIN C	SBI# : 00315294	Institution : DCC
Grievance # : 46948	Grievance Date : 06/08/2006	Category : Individual
Status : Resolved	Resolution Status : Level 3	Resol. Date : 03/13/2007
Grievance Type: Health Issue (Medical)	Incident Date : 06/08/2006	Incident Time :
IGC : Merson, Lise M	Housing Location : Bldg 17, Lower, Tier B, Cell 8, Single	

### OFFENDER GRIEVANCE DETAILS

**Description of Complaint:** Inmate claims: My front teeth have developed an infection and the dentist told me that I need a root canal which can only be approved by the DOC.

**Remedy Requested :** That I be given a root canal to properly treat the infection in my teeth.

### INDIVIDUALS INVOLVED

Type	SBI #	Name

### ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : YES	Date Received by Medical Unit : 06/20/2006
Investigation Sent : 06/20/2006	Investigation Sent To : Rodweller, Deborah
Grievance Amount :	

Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

**INFORMAL RESOLUTION****OFFENDER GRIEVANCE INFORMATION**

<b>Offender Name :</b> BRATHWAITE, KEVIN C	<b>SBI# :</b> 00315294	<b>Institution :</b> DCC
<b>Grievance # :</b> 46948	<b>Grievance Date :</b> 06/08/2006	<b>Category :</b> Individual
<b>Status :</b> Resolved	<b>Resolution Status:</b> Level 3	<b>Inmate Status :</b>
<b>Grievance Type:</b> Health Issue (Medical)	<b>Incident Date :</b> 06/08/2006	<b>Incident Time :</b>
<b>IGC :</b> Merson, Lise M	<b>Housing Location :</b> Bldg 17, Lower, Tier B, Cell 8, Single	

**INFORMAL RESOLUTION**

**Investigator Name :** Rodweller, Deborah **Date of Report :** 06/20/2006

**Investigation Report :** o documentation in chart re: need for root canal.  
placed on op list for fillings on 6-08-06.  
Approx 4 mth waiting list according to dentist Zimble.  
Next level.

**Reason for Referring:**

**Investigator Name :** Eller, Gail **Date of Report :** 11/15/2006

**Investigation Report :** Inmate instructed to put in a sick call request for dental and be specific as to questionable infection in front teeth.

**Reason for Referring:**

**Offender's Signature:** \_\_\_\_\_

**Date :** \_\_\_\_\_

**Witness (Officer) :** \_\_\_\_\_

DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

## GRIEVANCE INFORMATION - IGC

### OFFENDER GRIEVANCE INFORMATION

Offender Name : BRATHWAITE, KEVIN C	SBI# : 00315294	Institution : DCC
Grievance # : 46948	Grievance Date : 06/08/2006	Category : Individual
Status : Resolved	Resolution Status : Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 06/08/2006	Incident Time :
IGC : Merson, Lise M	Housing Location : Bldg 17, Lower, Tier B, Cell 8, Single	

### IGC

Medical Provider:

Date Assigned

Comments:

☒ Forward to MGC      ☐ Forward to Medical Provider      ☐ Warden Notified  
☐ Forward to RGC      Date Forwarded to MGC : 09/27/2006  
☐ Offender Signature Captured      Date Offender Signed :



DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

Date: 03/13/2007

**GRIEVANCE INFORMATION - Appeal****OFFENDER GRIEVANCE INFORMATION**

<b>Offender Name :</b> BRATHWAITE, KEVIN C	<b>SBI# :</b> 00315294	<b>Institution :</b> DCC
<b>Grievance # :</b> 46948	<b>Grievance Date :</b> 06/08/2006	<b>Category :</b> Individual
<b>Status :</b> Resolved	<b>Resolution Status :</b> Level 3	<b>Inmate Status :</b>
<b>Grievance Type:</b> Health Issue (Medical)	<b>Incident Date :</b> 06/08/2006	<b>Incident Time :</b>
<b>IGC :</b> Merson, Lise M	<b>Housing Location :</b> Bldg 17, Lower, Tier B, Cell 8, Single	

**APPEAL REQUEST**

Appeal received 14 November 2006.

Inmate states: The damage that was done to my front teeth is of no fault of mine. An infection has developed that requires a root canal. This problem has been ongoing since Oct., 9th 2004. the dentist told me that the only way I can get a root canal is if it gets approved by the DOC. The infection on my front teeth seems to be getting worse. So at this time I am requesting that my front teeth be repaired and that I get a root canal as soon as possible.

**REMEDY REQUEST**

DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

Date: 03/13/2007

## GRIEVANCE INFORMATION - BGO

### OFFENDER GRIEVANCE INFORMATION

<b>Offender Name :</b> BRATHWAITE, KEVIN C	<b>SBI# :</b> 00315294	<b>Institution :</b> DCC
<b>Grievance # :</b> 46948	<b>Grievance Date :</b> 06/08/2006	<b>Category :</b> Individual
<b>Status :</b> Resolved	<b>Resolution Status :</b> Level 3	<b>Inmate Status :</b>
<b>Grievance Type:</b> Health Issue (Medical)	<b>Incident Date :</b> 06/08/2006	<b>Incident Time :</b>
<b>IGC :</b> Merson, Lise M	<b>Housing Location :</b> Bldg 17, Lower, Tier B, Cell 8, Single	

### REFERRED TO

**Due Date :** 12/05/2006      **Referred to:** Person      **Name:** Welch, James

#### Type of Information Requested :

Grievant requests root canal & treatment for infection.

#### Response to Information Requested :

### DECISION

**Date Received :** 11/17/2006

**Decision Date :** 02/06/2007

**Vote :** Uphold

**Comments :**

Grievant needs dental care (fillings and root canal).

DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

Date: 03/13/2007

## GRIEVANCE INFORMATION - Bureau Chief

### OFFENDER GRIEVANCE INFORMATION

Offender Name : BRATHWAITE, KEVIN C	SBI# : 00315294	Institution : DCC
Grievance # : 46948	Grievance Date : 06/08/2006	Category : Individual
Status : Resolved	Resolution Status : Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 06/08/2006	Incident Time :
IGC : Merson, Lise M	Housing Location : Bldg 17, Lower, Tier B, Cell 8, Single	

### DECISION

Decision Date: 03/12/2007      Vote : Uphold

Comments :

## GRIEVANCE INFORMATION - MGC

### OFFENDER GRIEVANCE INFORMATION

Offender Name : BRATHWAITE, KEVIN C	SBI# : 00315294	Institution : DCC
Grievance # : 46948	Grievance Date : 06/08/2006	Category : Individual
Status : Resolved	Resolution Status: Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 06/08/2006	Incident Time :
IGC : Merson, Lise M	Housing Location : Bldg 17, Lower, Tier B, Cell 8, Single	

### MGC

Date Received : 09/27/2006

Date of Recommendation: 11/16/2006

### GRIEVANCE COMMITTEE MEMBERS

Person Type	SBI #	Name	Vote
Staff		Eller, Gail	Deny
Staff		Branch, Adriene	Deny
Staff		Gordon, Oshenka	Deny
Staff		McCreanor, Michael	Abstain

### VOTE COUNT

Uphold : 0

Deny : 3

Abstain : 1

### TIE BREAKER

Person Type	SBI #	Name	Vote
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### RECOMMENDATION

Hearing held Monday 13 November 2006.

Deny: Submit a sick call request for the dentist about ? infection in front teeth.

DEPARTMENT OF CORRECTION  
Bureau of Prisons  
245 McKee Road  
Dover, Delaware 19904

March 13, 2007  
~~March 12, 2007~~

17, BL-8

Inmate BRATHWAITE KEVIN C  
SBI # 00315294  
DCC Delaware Correctional Center  
SMYRNA DE, 19977

Dear KEVIN BRATHWAITE:

We have reviewed your Grievance Case # 46949 dated 06/08/2006.

Based upon the documentation presented for our review, we uphold your appeal request.

Accordingly, there is no further issue to mediate nor Outside Review necessary as provided by BOP Procedure 4.4 entitled "Inmate Grievance Procedure", Level III appeals.

Sincerely,

Richard Kearney  
Bureau Chief

EXhibit - B



DCC Delaware Correctional Center

Smyrna Landing Road

SMYRNA DE, 19977

Phone No. 302-653-9261

Date: 03/13/2007

**GRIEVANCE REPORT****OFFENDER GRIEVANCE INFORMATION**

<b>Offender Name :</b> BRATHWAITE, KEVIN C	<b>SBI# :</b> 00315294	<b>Institution :</b> DCC
<b>Grievance # :</b> 46949	<b>Grievance Date :</b> 06/08/2006	<b>Category :</b> Individual
<b>Status :</b> Resolved	<b>Resolution Status :</b> Level 3	<b>Resol. Date :</b> 03/13/2007
<b>Grievance Type:</b> Health Issue (Medical)	<b>Incident Date :</b> 06/08/2006	<b>Incident Time :</b>
<b>IGC :</b> Merson, Lise M	<b>Housing Location :</b> Bldg 17, Lower, Tier B, Cell 8, Single	

**OFFENDER GRIEVANCE DETAILS**

**Description of Complaint:** Inmate claims: I was told today that I would have to wait many months to have three teeth filled. If I have to wait that long, then by the time I am called for fillings the teeth will be even more decayed.

**Remedy Requested :** That I get dental treatment ASAP.

**INDIVIDUALS INVOLVED**

Type	SBI #	Name
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**ADDITIONAL GRIEVANCE INFORMATION**

<b>Medical Grievance :</b> YES	<b>Date Received by Medical Unit :</b> 06/20/2006
<b>Investigation Sent :</b> 06/20/2006	<b>Investigation Sent To :</b> Rodweller, Deborah
<b>Grievance Amount :</b>	

Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

## INFORMAL RESOLUTION

### OFFENDER GRIEVANCE INFORMATION

Offender Name : BRATHWAITE, KEVIN C	SBI# : 00315294	Institution : DCC
Grievance # : 46949	Grievance Date : 06/08/2006	Category : Individual
Status : Resolved	Resolution Status: Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 06/08/2006	Incident Time :
IGC : Merson, Lise M	Housing Location : Bldg 17, Lower, Tier B, Cell 8, Single	

### INFORMAL RESOLUTION

Investigator Name : Rodweller, Deborah Date of Report 06/20/2006  
Investigation Report : Only i sick call in chart dated 05-22-06.  
placed on 4 mth waiting list for fillings according to Dr Zimble.  
Reason for Referring:

Investigator Name : Eller, Gail Date of Report 11/15/2006  
Investigation Report : Inmate is on the dental list and will be notified when the time arrives to be seen.  
Reason for Referring:

Offender's Signature: \_\_\_\_\_

Date : \_\_\_\_\_

Witness (Officer) : \_\_\_\_\_

DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

Date: 03/13/2007

## GRIEVANCE INFORMATION - IGC

### OFFENDER GRIEVANCE INFORMATION

<b>Offender Name :</b> BRATHWAITE, KEVIN C	<b>SBI# :</b> 00315294	<b>Institution :</b> DCC
<b>Grievance # :</b> 46949	<b>Grievance Date :</b> 06/08/2006	<b>Category :</b> Individual
<b>Status :</b> Resolved	<b>Resolution Status :</b> Level 3	<b>Inmate Status :</b>
<b>Grievance Type:</b> Health Issue (Medical)	<b>Incident Date :</b> 06/08/2006	<b>Incident Time :</b>
<b>IGC :</b> Merson, Lise M	<b>Housing Location :</b> Bldg 17, Lower, Tier B, Cell 8, Single	

### IGC

**Medical Provider:**

**Date Assigned**

**Comments:**

☒ Forward to MGC
 ☐ Forward to Medical Provider
 ☐ Warden Notified

☐ Forward to RGC
 Date Forwarded to MGC : 09/27/2006

☐ Offender Signature Captured
 Date Offender Signed :

DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

## GRIEVANCE INFORMATION - Appeal

### OFFENDER GRIEVANCE INFORMATION

<b>Offender Name :</b> BRATHWAITE, KEVIN C	<b>SBI# :</b> 00315294	<b>Institution :</b> DCC
<b>Grievance # :</b> 46949	<b>Grievance Date :</b> 06/08/2006	<b>Category :</b> Individual
<b>Status :</b> Resolved	<b>Resolution Status :</b> Level 3	<b>Inmate Status :</b>
<b>Grievance Type:</b> Health Issue (Medical)	<b>Incident Date :</b> 06/08/2006	<b>Incident Time :</b>
<b>IGC :</b> Merson, Lise M	<b>Housing Location :</b> Bldg 17, Lower, Tier B, Cell 8, Single	

### APPEAL REQUEST

Appeal received 14 November 2006.

Inmate states: Over the past two (2) years I have submitted numerous sick call request to have my fillings replaced and nothing has been done. On Sept, 25th I was called to the dentist office and she didn't even examine my teeth or do x-rays or anything. all she did was ask me to sign off on a grievance. When I refused to sign off, she told me I would not be seen for Nine (9) to twelve (12) months. The damage to my teeth is only getting worse and it's already been over two (2) years.

### REMEDY REQUEST



DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

Date: 03/13/2007

**GRIEVANCE INFORMATION - BGO****OFFENDER GRIEVANCE INFORMATION**

<b>Offender Name :</b> BRATHWAITE, KEVIN C	<b>SBI# :</b> 00315294	<b>Institution :</b> DCC
<b>Grievance # :</b> 46949	<b>Grievance Date :</b> 06/08/2006	<b>Category :</b> Individual
<b>Status :</b> Resolved	<b>Resolution Status :</b> Level 3	<b>Inmate Status :</b>
<b>Grievance Type:</b> Health Issue (Medical)	<b>Incident Date :</b> 06/08/2006	<b>Incident Time :</b>
<b>IGC :</b> Merson, Lise M	<b>Housing Location :</b> Bldg 17, Lower, Tier B, Cell 8, Single	

**REFERRED TO**

**Due Date :** 12/05/2006      **Referred to:** Person      **Name:** Welch, James

**Type of Information Requested :**

Grievant reports elongated delay in receiving dental services.

**Response to Information Requested :****DECISION**

**Date Received :** 11/16/2006

**Decision Date :** 02/06/2007

**Vote :** Uphold

**Comments :**

Grievant needs fillings. His sick call is dated 5/22/06



DCC Delaware Correctional Center  
Smyrna Landing Road  
SMYRNA DE, 19977  
Phone No. 302-653-9261

Date: 03/13/2007

## GRIEVANCE INFORMATION - Bureau Chief

### OFFENDER GRIEVANCE INFORMATION

Offender Name : BRATHWAITE, KEVIN C	SBI# : 00315294	Institution : DCC
Grievance # : 46949	Grievance Date : 06/08/2006	Category : Individual
Status : Resolved	Resolution Status : Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 06/08/2006	Incident Time :
IGC : Merson, Lise M	Housing Location : Bldg 17, Lower, Tier B, Cell 8, Single	

### DECISION

Decision Date: 03/12/2007      Vote : Uphold

Comments :

## GRIEVANCE INFORMATION - MGC

### OFFENDER GRIEVANCE INFORMATION

Offender Name : BRATHWAITE, KEVIN C	SBI# : 00315294	Institution : DCC
Grievance # : 46949	Grievance Date : 06/08/2006	Category : Individual
Status : Resolved	Resolution Status: Level 3	Inmate Status :
Grievance Type: Health Issue (Medical)	Incident Date : 06/08/2006	Incident Time :
IGC : Merson, Lise M	Housing Location : Bldg 17, Lower, Tier B, Cell 8, Single	

### MGC

Date Received : 09/27/2006

Date of Recommendation: 11/16/2006

### GRIEVANCE COMMITTEE MEMBERS

Person Type	SBI #	Name	Vote
Staff		Eller, Gail	Deny
Staff		Gordon, Oshenka	Deny
Staff		Branch, Adriene	Deny
Staff		McCreanor, Michael	Abstain

### VOTE COUNT

Uphold : 0

Deny : 3

Abstain : 1

### TIE BREAKER

Person Type	SBI #	Name	Vote
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### RECOMMENDATION

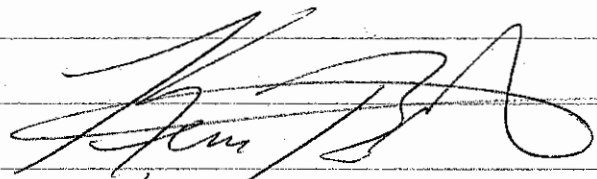
Hearing held Monday 13 November 2006.

Deny: Inmate on dental list - They will schedule inmate as his time arrives.

## Certificate of Service

I Kevin C. Brathwaite, states  
that I have caused a copy of  
the attached motion for injunctive  
relief to be mailed to the following  
party by way of U.S. Postal Service.

Ophelia Waters, Esq  
Atty Gen Office  
820 N. French St.  
Wilmington DE-  
19801



Kevin C. Brathwaite  
1181 Paddock Rd.  
Smyrna DE.  
19977

TO: KEVIN C. BRATHWAITE  
SBI# 315294 UNIT \_\_\_\_\_

DELAWARE CORRECTIONAL CENTER  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977



U.S. DISTRICT COURT  
Office of The Clerk  
844 N. KING ST.  
Wilmington DE  
19801